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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,143	04/21/2004	Samn Raffaniello	2098.002A	5089
23405 7590 07/17/2007 HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203				
			EXAMINER WARE, DEBORAH K	
			ART UNIT 1651	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/829,143

**Applicant(s)**

RAFFANIELLO, SAMN

**Examiner**

Deborah K. Ware

**Art Unit**

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/24/07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1-14 are presented for reconsideration on the merits.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 24, 2007, has been entered.

#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on April 24, 2007, was received and made of record. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwardson et al (US 5763411) in view of Chen et al (US 6761903), both cited on previously enclosed PTO-892 Form, and Akassoglou et al, cited on enclosed PTO-1449 Form.

Claims are drawn to method of preventing scarring from injury sites comprising applying to an injury site a bandage material coated with a defibrinogenating agent or fibrinolytic agent.

Edwardson et al teach coating bandages, sutures, or other solid support with fibrin materials. Note abstract and col. 26, lines 25-35.

Chen et al teach coating agents defibrinogenating agents, like ancrod and fibrinolytic agents, like nPA or fenofibrate. Note col. 5, lines 30-35 and col. 33, lines 15 20 and 25-35 and col. 34, line 47.

Akassoglou et al teach fibrin depletion decreases inflammation at a damaged site or potentially wounded site. See abstract.

The claims differ from Edwardson et al in that the claimed coating agents are not disclosed.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to replace fibrin monomer coating disclosed by Edwardson et al with coating agents as disclosed by Chen et al in order to provide for a method to prevent scarring at injury sites as suggested by Akassoglou et al. One of skill would have expected that depletion of fibrin will minimize scarring because its removal or reduction is recognized to decrease and alleviate inflammation at damaged sites.

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Clearly one of skill would have been motivated to provide bandages to prevent scarring and to coat them with these well known ingredients in the art is clearly an obvious modification of Edwardson et al. In the absence of persuasive evidence to the contrary the claims are rendered prima facie obvious because one of skill in the art would have expected successful results.

### ***Response to Arguments***

Applicant's arguments filed April 24, 2007, have been fully considered but they are not persuasive. Applicants argue that Edwardson teaches the opposite of what Applicants claims are requiring, however, Chen et al do disclose the defibrinogenating agents and to replace fibrin monomer since it causes scarring and to reduce the amount of fibrin at the wound site is an obvious modification, therefore.

Thus, the argument that Edwardson et al teach away from the claimed invention is not deemed persuasive. Also, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Further, the point that Applicants make regarding Chen et al is noted, however, the defibrinogenating agents as disclosed by Chen et al are applied as coating agents as are the instant claims. Hence, one of skill in the art would have expected the agents to intrinsically heal the wound since as disclosed by Edwardson the coating is desired to be applied to the bandage which will then be applied to the wound site. Therefore, one

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of skill would have expected successful results. The art recognizes the desire to coat the bandages to promote healing and also recognizes that defibrinogenating agents are useful coatings. Akassoglou et al clearly suggest that this is the case. Thus, the claims are prima facie obvious.

All claims fail to be patentably distinguishable over the state of the art discussed above. Therefore, the claims are properly rejected.

The remaining references are cited to show the further state of the art.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Deborah K. Ware*  
**DEBORAH K. WARE**  
**PATENT EXAMINER**  
Deborah K. Ware

July 7, 2007